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LETTER

TO THE

Earl of O——d,

CONCERNING THE

BILL of PEERAGE.

*Rarus enim ferme Sensus communis in illa
Fortuna ——— Juv.*

By Sir R——d S——le.

The THIRD EDITION.

D U B L I N:

**Printed by Thomas Hume next Door to the Walsh's
Head in Smock-Alley, 1719.**



The gift of
Ernest Blaney Dane

L E T T E R

T O

The Earl of O—d, &c.

My Lord,

I AM very glad of an Occasion, wherein I have the good Fortune to think the same Way with your Lordship, because I have very long suffer'd great deal of Pain in reflecting upon a certain Virulence, with which my Zeal has, heretofore, transported me to treat your Lordship's Person and Character. I do protest to you, excepting in the first Smart of my Disgrace, and Expulsion out of the House of Commons, I never writ any thing that ought to displease you, but with a reluctant Heart, and in Opposition to much Good-will and Esteem for your many great, and uncommon Talents: And I take the Liberty to say thus publickly to your self, what I have often said to others, on the Subject of my behaviour to you. I never had any other Reason to lessen my Lord of O——d than that which *Brutus* had to stab *Cesar*, the Love of my Country: Your Lordship will, I hope, believe there cannot be a more voluntary, unrestrain'd Reparation made to a Man, than that I now make to you in begging your Pardon thus publickly for every thing I have spoken or written to your Disadvantage, foreign to the Argument and Cause which I was then labouring to support. You will please to believe I could not have been so insensible as
not

not to be touch'd with the Generosity of part of your Conduct towards me, or have omitted to acknowledge it accordingly, if I had not thought that your very Virtue was dangerous; and that it was (as the World then stood) absolutely necessary to depreciate so adventurous a genius surrounded with so much Power as your Lordship then had. I transgress'd, my Lord, against you when you cou'd make twelve Peers in a Day: I ask your Pardon, when you are a private Nobleman; and as I told you, when I resign'd the Stamp-Office, I wish'd you all Prosperity, consistent with the Publick Good; so I now congratulate you upon the Pleasure you must needs have, in looking back upon the true Fortitude with which you have pass'd through the Dangers arising from the Rage of the People, and the Envy of the rest of the World. If to have rightly judg'd of Men's Passions and Prejudices, Vices and Virtues, Interests and Inclinations, and to have waited with Skill and Courage for proper Seasons and Incidents to make use of them, for a Man's Safety and Honour, can administer Pleasure to a Man of Sense and Spirit, your Lordship has abundant Cause of Satisfaction.

In Confidence that you will accept of my Sorrow and Repentance for the unprovok'd Liberties I have taken in my former Writings, I make you my Patron in this present Discourse on the greatest Occasion that has, perhaps, ever happen'd in *England*: Your Lordship will see I write in haste, and the Necessity of pressing forward to be time enough to be of any Use, will excuse the Failures in Style and Expression. I shall therefore immediately fall into the Matter of the Bill, which I fear may change this free State into the worst of all Tyrannies, that of Aristocracy: I shall support my Reasons for that Terror, by running through the se-

veral Parts of it, and making it appear that this is more likely than any other Consequence that can be suppos'd will attend such a Law as this would be : The whole Tenor of it is very unfortunately put together, if any thing but an Addition of Power to the Peers is intended by it. I believe, My Lord, all mankind will allow that the only plausible Reason for this Law, is what your Lordship remembers as well as I ; but the Preamble assigns no such Reason, but says that sixteen Peers of *Scotland*, by Reason of many new Creations since the Union, are not a sufficient and proportionable Representative of that Nobility, and therefore they shall hereafter not be represented at all, but a Thing much more suitable to the Peerage of *Scotland* ought to be done for them, to wit, *That twenty five of them should, at all Times hereafter, have hereditary Seats in Parliament.* I always imagin'd no one was Judge of what was suitable to a Man but himself; and I see no Manner of Comfort that it can possibly be to one who has any thing taken from him, that the Possession of it is more suitably plac'd : How is it suitable to the Peerage of *Scotland*, that instead of having a Representative of sixteen sitting by their Election, they are hereafter to be favour'd with having five and twenty there instead of them, and not one there in their Behalf; It is, my Lord, very much below Noblemen to use Cunning and Artifice ; and it must be allow'd that the Peers of *Scotland* cannot complain of any thing like being trick'd, but their potential Seats in Parliament are bar'd and taken from them, not by Collusion and double Dealing, but the most unreserv'd and candid Usurpation imaginable. But tho' this is done with so much Ease, and no Reason given but that they who do it are pleas'd to say, *It is most suitable*, it is to be presum'd those whose Consent is necessary

cessary for the divesting innocent Men of their Liberty and Honour, will desire some better Account of the Matter before they deprive their Fellow-Subjects; I cannot but from a natural Detestation of Injustice say, that it is the highest Wrong done to the *Indulgence* mention'd a little after in the Preamble, to expect it will be granted in Favour of any Men, in Wrong of any other. And I will not doubt but the faithful Commons will alarm that Benignity from being employed to the Destruction of it self, or Oppression of others. I hope the best Man, and best Prince in the World will be Gracious, so as to have it *always in his Power to be Gracious*.

I am sure He will never give His People any Reason to complain but of His too great Goodness: Happy the Sovereign, and happy the People, when excessive Grace is all that is to be feared from him: Doctor *Burnet* compliments King *William*, *Non te fortem Dicimus, sed Querimur*. This Nation may say at this Time the same thing to Her Monarch. *We do not only acknowledge, but bewail that he is so Gracious.*

But to come close to the Point. The Peers of Scotland have an Indefeasible Right by the Act of Union to be Elected, and to serve in Parliament as Peers of Great-Britain, in the Manner therein stipulated; and it would be but more cruel, not more unjust, to take from them their Lives and Fortunes, as this Honour and Privilege which their Ancestors purchas'd by the frequent Hazard of theirs. The Terms of this Union are Plain and Absolute; nor can there be any Privilege, Liberty, or Property, secur'd by it to the meanest Subject of either Nation, violated or alter'd against his Will, and no Satisfactory Reparation done him, without Infringement of the whole Act, and leaving the Persons so injur'd, at large as Innocent

cent Outlaws, at Liberty to avenge by Force, what was done by Force; for Protection and Obedience are reciprocal, and the withdrawing the one, discharges the other. What then is the Condition of these unhappy Men, who are to be divested of their Rights, and Privileges of Subjects, and yet no doubt to be deem'd Traitors, should they fly to any Foreign Power, or Invador of that Nation, which has in the dearest and greatest Considerations, (those of Honour and Distinction) made them Foreigners? But I will argue this Point from the Nature of Power in General.

Power as it is to be exerted by Men over Men, must be directed according to Nature, Justice and Reason; the first obvious Step from Confusion and Anarchy towards such a Power, is Submission to the Will of one Great Good Man; but such is the Weakness and Insufficiency of the Greatest and Best for such a Charge, that every Abatement, Limitation, and Division of that Power which was at first Despotick, are so many Improvements of Government. The Legislature of these Kingdoms, in spite of many Convulsions, has rested in three States; but neither this, or any other Form, can preserve it self, but according to the Rules of Justice and Honour; Power separated from them is Brute-Force, and becomes Violence, which is inconsistent with Reason and Nature, according to which, it is as just a Maxim to say, The Legislature can do no Wrong, as to say, The King can do no Wrong; for to do Wrong, is not do as becometh a Legislature, or becometh a King, and therefore not in the Power of either,

If we should suppose the State to commit Injustice, it would in that Act be as destructive of it self, as of the Persons violated; for it would cease to be a Congregation of Men living under Laws,
and

and begin to be a Collection of Robbers and Pirates supporting themselves by Force and Strength; it is therefore certain that it is impossible and against the very Nature of the Thing, the Legislature should do Injustice.

The Terms of the Union cannot be revok'd without disuniting the Kingdoms; for after that is done, they are no longer held together by Law, but by Force, and the Power which keeps us together must be Arbitrary, and not Legal, or if Legal, not Righteous; for a Law not supported by Justice, is in it self Null and Void; nor are the Makers of it Legislators, but Oppressors.

Thus then it appears, without any possible Contradiction, that the Parliament of Great-Britain cannot exclude the Peers of Scotland from the Benefit of the Twenty-third Article in the Act for the Union, without becoming an Arbitrary Power acting with an Indifference to Good and Evil, on the Foundation of Might only.

Now, as Men are attempting what is not in their Power to do, according to Honesty, and therefore not in their Power to do all, one would think this were enough to say against it; but the World is so corrupt, that an Argument that a thing is inconvenient, is more forcible than Reasons to prove a thing unjust.

I shall go on then to urge, that We are safer under the Prerogative in the King, than we can be under an Aristocracy.

The Prerogative is a Power in the Sovereign, not express'd or described by the Laws, but to be exerted in the Preservation of them, by the Rule of the general Good. And if you could prove, that the Business of the Twelve Gentlemen was done purely to save the Nation, and that it was done for the Good of the Whole, the Statesman,
who

who advis'd it, would deserve the Thanks of all Mankind for exposing himself to the Misinterpretation and Resentment of future Parliaments for the Good of his Fellow-Subjects. I say, Sir, the Fault is not in the Power, but the Misapplication of it: And in judging of this Matter we are to carry our Thoughts beyond the Age we live in, and abstract ourselves from the little Quarrels and Animosities of our Time, and consider, if this Power may not be proper to be lodg'd in the Chief Magistrate of this Kingdom a Hundred Years hence. The Magistracy of the King of England will be disabled if this Power is taken away; and we are to expect Protection, as well as fear Oppression from it. And, my Lord, had I time, I am confident I could cite you as many Instances of Preservation from the Prerogative in good Princes, as of Violation from arbitrary ones. I believe it will puzzle all the Civilians in the World to account for the Behaviour of the S—x—n L—ds on this Occasion. For though a Deputy or Representative has indeed full Right to act for his Principal or Constituent in as ample and effectual Manner as if it were such his Principal himself, who did all which he the Representative act at the same time, it is, from Reason and Equity, understood, that these Acts should be for his Constituent's Good and Interest, and never can be construed to extend to the taking all the Constituents Property, and converting his Authority to act for him, into a Power to act against him; much less for vesting in himself the Representative, the Right intrusted by the Principal.

I will not pretend to doubt but that those noble Personages have under the Hands and Seals of all, and every of their Electors, the Peers of Scotland, full Power and Authority for this Alteration; without which

Authority

Authority this Proceeding cannot be reconcil'd to common Honesty. But I will aver, that if the thirty odd, who are to be enobled by this Bill, are to be made up by present Members of the House of Commons, such Members are to climb to Honour through Infamy. Nor can I imagine what Comfort reasonable Creatures can take in an Advancement so purchased, but that of hiding the Surnames of their Families (which they shall have made detestable) under the covering of Titles.

This is not, my Lord, talking passionately, but plainly and honestly; and I do not do such Men, if there are such, Injury; but they do me, and every Commoner of England Injury, by treacherously attempting to facilitate the Passage of this dreadful Bill into a Law, that may enslave their present Equals, and contriving to partake of the Tyranny over them obtained by such their Perfidiousness.

My Lord, what I promised to maintain, was, that the Bill is made for an Aristocracy; and, indeed, it seems to me calculated for nothing else; nay, it has not so much as the Appearance of any thing else; for tho' a Man of Honour, that is to say, a Man of Conscientious Integrity, knows that he is a Peer for the Sake of his fellow Subjects, and that this Right is vested in him and his Family for the sake of Society, not for himself and Successors only; yet is there no part of Society consider'd in this Bill, but meerly the Peers and Nobles. Your Lordship, who has declared against it, has observed this with proper Care of the Prerogative, give me leave to declare the same, not only in Behalf of the Prerogative, but also that of the People. The Lords exercise a Power in the last Resource of Justice; and an Appeal, they say, lies to them from the Courts of Westminster-Hall for determining all the Property of Great Britain; and yet they are willing to have a Law, which must necessarily disable them from being a Court of Justice that is, a capable Court of Justice for the future. The

Bill even provides for their Insufficiency as to this purpose and there is a Clause, which, instead of looking out for great and knowing Men, is very careful to leave Power in the King to give Titles, in case of Extinctions, to Minors. But much at the same time is the Partiality of the Bill that Females are to be excluded from their future Right, as if a Lady of good Sense were not as capable of bringing into the World a Man of Sense, as a Boy under Age is of becoming a Man of Justice and Honour from the meer Recommendation of his Fortune; for it is not to be doubted but that wou'd be his best Pretension; but Lords have thought it more eligible to have in view the providing rich Husbands for their Daughters from among the Commons, than leaving it to their Female Heirs to make Lords of the Descendants of meritorious Commoners.

Thus, my Lord, you see the Aristocracy is already set out by this Bill, for all the Provisions and Limitations of it regard only the Titles and Honours of the Peers, and a prodigious Care is taken that no one should suffer from possible Contingencies and distant Incidents among themselves, but no regard had to the known immediate present Rights of those who do not sit in their House, but have title of Election into it; there is no difficulty of destroying those whom they know to have Titles, but they are prodigious tender of hurting who may have Titles of which they do not know. And we Commoners are suppos'd not to have Eyesight enough to see through this noble Subtlety. The Lords will be Judges and give and admit to whom they please incidental Claims but Extinctions are to be supplied only by the King, and he might possibly give them to Persons they should not like.

The worthiest Circumstance in the Bill, is the Favour and Notice taken of the Title in the Dutches of Bucclugh and if good Sense, Virtue, and all manner of Merit are Reasons for honouring any Persons in their Descendants, the Heirs of that illustrious Lady have indisputable Pre-
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tensions, and I hope the King will never want the Assistance of his Legislature for conferring it upon them, without the Assistance of such a Bill as this is.

To conclude; My Lord, the Restraint of the Peers to a certain Number will render the House useless, because it is well none that the great Business is always carried on by Men created first in their own Persons; and if all such were now to be excluded, I need not say what would be the ability of the House.

When they are confin'd to a Number, the most Powerful of them will have the rest under their Direction; and all the Property disputed before them will be bestowed not by Judgment, but by Vote and Humour, or Worse. Judges so made by the blind Order of Birth, will be capable of no other Way of Decision. It is said that Power attends Property, it is as true that Power will command Property; and I am at Liberty to say, that according to the Degeneracy of Humane Nature, the Lords may as well grow corrupt as other Men; and if they should do so, how will this be amended but by the Consent of those who shall become so corrupt? What shall we then say? Shall we expose Our selves to probable Evils, with the Prospect of impossible Remedies against them?

I will not insinuate any Thing from the Suspicions or Dangers that may very well be expected will arise from the Impatience of those new Nobles, who are not to be seated in the House till another Session of Parliament, but am at liberty to suppose that Session would not be very far off after this Bill should become a Law, It is hardly to be read seriously, when the Bill, in a grave Stile and sober Contradiction has these Words, *The twenty five Peers on the Part of the Peerage of Scotland*, as if they who were made instead of the Peers of Scotland, could without a Banter, be call'd Peers on the Part of the Peerage of Scotland. The true Description of them is Peers made, when the Peers of Scotland were no more to be Peers, for the Titles resting in their Families, without Hopes of Succession in the Peerage and Legislature, is only a Bar against any Participation of Power and Interest in their Country. It is putting them into a Condition of Papists Convict, as to what ought to be most dear to them, their Honour and Reputation.

It is held by true Politicians a most dangerous thing to

give the meanest of the People just Cause of Provocation much more to enrage Men of Spirit and Distinction, and that with downright Injuries.

We may flatter our selves that Property is always the Source of Power; but Earl *Mar*, who led and commanded Men of much greater Property than himself, is an Instance that Property, like all other Possessions, has its Effects according to the Talents and Abilities of the Owner: And as it is allowed that Learning and Courage are very common Qualities in that Nation, I should think it not very advisable to provoke the greatest, and for ought we can tell, the best Men amongst them.

Thus we are bar'd from making this Law by prudential Rules, as well as from the inviolable Rule of Justice and common Right with Relation to the *Scotch* Peers; but if we consider the Matter, with regard to the King's Prerogative, this Law would diminish it to an irreparable Degree; and it is a strange time to take away Power, when it is in the Possession of a Prince who uses it with so much Moderation, that he is willing to resign it; but we are to consider the the Prerogative as part of the Estate of the Crown, and not consent to the taking it out of the Crown, till we see just Occasion for it.

His Majesty's Indulgence makes it safe in his Royal Breast, and we know of nothing any other of the Family has done to alter it for fear of him. If others have just Apprehensions, from whencesoever they arise, they shall speak them, and prove them, just before they have any honest Man's Vote for altering the Estate in the Crown. The Prerogative can do no hurt when Ministers do their Duty, but a settled Number of Peers may abuse their Power, when no Man is answerable for them, or can call them to an Account for their Encroachments.

I know it is said, and that very truly, the manner of their Power will be the same as now, but then the Application of it may be altered when they are an unchangeable Body. Schemes of Grandeur and Oppression can be form'd to invade the Property, as well as Liberty of their Fellow-Subjects; which would, according to the present Establishment, be vain to undertake, when they are subject to Alteration before their Projects could be ripen'd into Practice and Usurpation.

As for any sudden and surprizing Way of Creation, that lies before the Legislature for Censure, and the great Diminution which all Creations bring upon the King's Authority

is a sufficient defence against the abusive Employment of that Authority this Way. For when the King makes Peers, he makes perpetual Opponents of his Will and Power, if they shall think fit; which one Consideration cannot but render frequent Creations terrible to the Crown.

This Constitution has subsisted in Spight of Convulsions and Factions without restraining or expressing the Extent of the Legislative Powers; nor is it possible for any Man, or Assembly of Men, to circumscribe their Distinct Authorities: No, they are to be left eternally at large, and Safety of each Part, and the good of the Whole, are to be the Rules of their Conduct. And as 'tis impossible to foresee all the Circumstances which must arise before them, there is no other safe Way, but leaving them at large, as vigilant Checks upon each other, equally unconfin'd, but by Reason and Justice.

Hence it is, my Lord, that I have always asserted, that if there was any Outrage committed in the Case of the Twelve Gentlemen, the Peers should have then withstood the receiving of them, or done what they thought fit at another Season for their Satisfaction, and not when it is too late, instead of asserting their Liberties, meditate their future Security in unreasonable Concessions from the Crown, and Discouragements upon the Merit of the Commons.

I have, my Lord, lain under unjust Imputations of turning the Persons and Characters of Men in present into ridicule; but as I abhor to do any thing but what I think I may defend, I neither have nor will presume to take such a Licence, but leave it to Gentlemens own Modesty and Reflection, to consider whether they can reasonably think the Consummation of the *English* Glory and Merit is to close and rest in their Persons.

After the Bill has sufficiently provided for the Aristocracy over these Dominions, it goes into a kind of Oeconomy and Order among themselves, which relates to their Nobility and not to their Peerage; we plain Men and Commoners will not dispute about any thing which we know to be merely trifling and ornamental; and if they will be satisfied with a Power in them as Peers, they shall be Dukes, Marquesses, Earls, or whatever other Words they please, without our Envy or Opposition. But when we come seriously to consider what we are going to do, we must take the Liberty to be very jealous, as the last time that it may be in our power to make a Stand for our selves and our Posterity; and

Noblemen

Noblemen cannot blame Commoners, who are as shy in bestowing, as they are importunate in urging the Grant of such a Power in themselves, which can be of no Use or Advantage but to themselves; at the same time one cannot resist observing to them, that, with respect to the Prerogative, the Peerage of *Scotland*, and the Rights of the whole Body of the People of *Great-Britain*, they cannot be more exorbitant in the use of this Bill, should it become a Law, than in the Circumstances under which they send it to us for our Concurrence; and 'tis not Thirst of Power, but Moderation in the Demands made of it, can recommend Men to further Trust; and we cannot apprehend but that which would be founded on Usurpation, would be exerted in Tyranny. But, my Lord, it is to be hop'd this unreasonable Bill will be entirely rejected, when no one can pretend to amend what is in its very Nature incorrigible, for it would be in vain to attempt a Superstructure, which ought to be approv'd, upon a Foundation which deserves nothing but Indignation and Contempt. It is a melancholly Consideration, that under the Pressure of Debts, the Necessities of a War, the Perplexities of Trade, and the Calamities of the Poor, the Legislature should thus be taken up and employ'd in the Schemes for the Advancement of the Power, Pride and Luxury of the Rich and Noble: I speak not this, my Lord, to spread Discontents or sow Divisions, but to compose and heal them; I speak of it in Charity to all Men, and address it to one, towards whom of all others my Behaviour has been most exceptionable. Thus far, my Lord, have I treated this Affair in a most solemn manner by reason of the awful Authority from whence it comes; but we must not on such great Occasions, be oppress'd by outward things, but look to the Bottom of the Matter before us divested of every thing that should divert us from seeing the true Reason of what passes, and the Pretensions to what is ask'd; if this Bill is requir'd for preventing the Creation of occasional Peers, why, at the same time, are five and twenty *Scotch*, and eight *English* to be now made? Is not this the same thing as to say, If you will let us make so many this one Time, under the Sanction of a Law, we will make no more, for we shall have no Occasion for any more.

Accusat Catalina Cethegum.

It appears indeed very unlikely any more should be wanted; if all that is wanted is to prevent the sudden and
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occasional Increase of Peers, a more easy Method for that purpose is obvious, to wit, a Prohibition to sit and vote in Parliament, till after a convenient Distance of Time after their Creation, I speak not this as I approve even such a Remedy, for every Power of Parliament (as is already observ'd) has from the Reason of the thing, and their distinct Safety, proper Limitations, as well as Privileges ; but I name that Expedient only to show that more is ask'd than is wanted ; and when more is asked than wanted, it cannot be thought unfair to suspect much more is to be done with the superfluous Power than is acknowledg'd ; the former Conduct of the House of Peers, of admitting or opposing Creations of the Crown, shows that they well know they have Power of so doing, when the Reason of the thing gives them Authority for it, much more when Reason dictates that their very Existence, as a House of Parliament, is struck at, as in the Case of pouring in new Members in the midst of their Debates.

The latter End of the Bill seems to have some Compassion towards the prerogative, and enacts somethings Gracious towards the Descendants of the Sovereign before the Commencement of the Aristocracy. *Provided always nevertheless, that nothing in this Act contained shall be taken, or construed to lay any Restraint upon the King's Majesty, his Heirs or Successors, from advancing or promoting any Peer, having Vote and Seat in Parliament, to any higher Rank or Degree of Dignity or Nobility ; nor from creating or making any of the Princes of the Blood Peers of Great Britain, or Lords of Parliament, and such Princes of the Blood, so created, shall not be esteemed to be any Part of the Number, to which the Peers of Great Britain are by this Act restrain'd.*

You see, my Lord, the Grace and Favour which (as soon as all their own Posterity, and Accidents that could befall them, are provided for) is most bounteously bestow'd upon the Children of the Royal Family ; as this Goodness is confer'd on those of it who are not yet entitled to that Honour, it is to be presum'd, in spite of all groundless Insinuations that are spread abroad, nothing vested in others of them will be assaulted, but that whatever becomes of this Bill, their present Estates their then remaining Estates will be still inviolable. I am confident none will deserve any other ; and as all human Nature is subject to Infirmities, those are most excusable which grow upon the Dignity of our Nature. I will dwell no more upon this tender Place, but say with the Tragedian :

Pyrrhus is violent, but he's sincere.

To

To conclude, my Lord, I will not doubt but Mens Spirits will be sufficiently rais'd, in a Cause which so nearly concerns the Subject, from the highest to the lowest; and that since the House has given this Affair such proper Usage, as to call a full Assembly to be present at the Debate, it will infallibly end according to Justice; for I can never think the Liberty of *England* in danger at such a Meeting. Rancors, Animosities, and private Hates, vanish in common Danger; and I doubt not but the Zeal that demand'd a Hearing before this full Assembly, will be doubled at it. I cannot leave off till I have done Justice to a noble and generous Youth,* who pleaded for the more distant Day, and wish I could represent him in the amiable Figure which he bears in my Imagination, to all the rest of his fellow Subjects. The *Roman*, the *English* Virtue is not lost, while a young Nobleman is contending against a Power as a Patriot, which he has so near a Pretence to as a Son; filial Piety to his Country and to his Family had no Struggle, but work'd together to break thro' a Modesty which long withheld him from taking a leading Part in this glorious Contention: Many who are nearer to him in Interest and Fortune, will, I hope, on the approaching Occasion, emulate his Virtue; none who have Honour to sit in the Legislature should be indifferent in it, but exert themselves according to the Interest they have in those Dominions, the only remaining Seats of Liberty: As for me, a poor *Plebeian*, who, from the Love of Justice and Virtue, have, at the Entrance into old Age, but just lifted my Head out of obscurity into Noise, Clamour and Envy, be it enough to applaud and celebrate their noble Qualities, be it enough for me to be permitted and forgiven.

I am

MY LORD,

Your Lordship's most Obedient,

AND

Most Humble Servant,

R—d S—le.

* Lord Finch.